SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Mark Wyland

March 24, 2008

10:30 AM

Room 4203
(John L. Burton Hearing Room)

(Diane Van Maren)

Item	Department
4440	Department of Mental Health—*Selected Issues as Noted*

PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair.

Please see the Senate File for dates and times of subsequent Subcommittee hearings, as well as full Senate Budget & Fiscal Review Committee hearings.

Department of Mental Health

A. OVERALL BACKGROUND

Purpose and Description of Department. The Department of Mental Health (DMH) administers state and federal statutes pertaining to mental health treatment programs. The department directly administers the operation of five State Hospitals—Atascadero, Coalinga, Metropolitan, Napa and Patton, and acute psychiatric programs at the California Medical Facility in Vacaville and the Salinas Valley State Prison.

The department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while judicially committed patients are treated solely using state funds.

Purpose and Description of County Mental Health Plans: Though the department oversees policy for the delivery of mental health services, counties (i.e., County Mental Health Plans) have the primary funding and programmatic responsibility for the majority of local mental health programs as prescribed by State-Local Realignment statutes enacted in 1991 and 1992.

Specifically, County Mental Health Plans are responsible for: (1) all mental health treatment services provided to low-income, uninsured individuals with severe mental illness, within the resources made available; **(2)** the Medi-Cal Mental Health Managed Care Program; **(3)** the Early Periodic Screening Diagnosis and Testing (EPSDT) Program for children and adolescents; **(4)** mental health treatment services for individuals enrolled in other programs, including special education, CalWORKs, and Healthy Families; and **(5)** programs associated with the Mental Health Services Act (Proposition 63 of 2004).

Background—Summary of Key Aspects of Mental Health Services Act (Proposition 63 of 2004), including Local Assistance Funding. The Mental Health Services Act (Act) addresses a broad spectrum of prevention, early intervention and service needs and the necessary infrastructure, technology and training elements that will effectively support the local mental health system. It is intended to expand mental health services to children and youth, adults and older adults who have severe mental illnesses or severe mental health disorders and whose service needs are not being met through other funding sources (i.e., funds are to supplement and not supplant existing resources).

Most of the Act's funding will be provided to County Mental Health programs to fund programs consistent with their approved local plans. The Act provides for a *continuous appropriation* of the funds to a special fund designated for this purpose.

The Act requires that each County Mental Health program prepare and submit a three-year plan which shall be updated at least annually and approved by the Department of Mental Health (DMH) after review and comment by the Mental Health Services Oversight and Accountability Commission (OAC).

A key provision of the act is that the state is to provide for a General Fund "maintenance of effort" (MOE) based on expenditures for 2004-05. In addition, Mental Health Services Act funds are to be used to supplement and not supplant existing efforts.

Overall Governor's Budget. The budget proposes expenditures of almost $5.2 billion ($2.2 billion General Fund) for mental health services, including capital outlay for the State Hospitals. This is an increase of $267 million ($206 million General Fund) from the revised current-year budget. Of the total amount, $1.312 billion is proposed to operate the State Hospital system. The remaining $3.8 billion is for community-based mental health programs.

Governor's Proposed Reductions for Department of Mental Health. The Governor declared a fiscal emergency on January 10th, utilizing the authority provided within the State Constitution as provided for under Proposition 58 of 2004. Under this authority, the Governor can call the Legislature into Special Session to deal with substantial revenue declines or expenditure increases, and to address the fiscal emergency. Other than utilizing remaining bond financing, the Governor has generally proposed a 10 percent across-the-board reduction approach to the fiscal emergency.

With respect to the Department of Mental Health (DMH), the Governor has proposed a reduction of almost $17.5 million (General Fund) in the current year and $76.8 million (General Fund) in the budget year. All of the Governor's proposed reductions pertain to Community-Based mental health services. The Administration states that no reductions were proposed for the State Hospitals due to potential health and safety concerns.

Governor's Proposed Reductions to Department of Mental Health

Community-Based Mental Health Programs	Governor's Proposed 2007-08 Reduction	Governor's Proposed 2008-09 Reduction
Early and Periodic Screening, Diagnosis & Treatment	-$6,715,000	-$46,336,000
Mental Health Medi-Cal Managed Care	-$8,185,000	-$23,800,000
San Mateo and Laboratory Project	-$190,000	-$464,000
Healthy Families, supplemental mental health	-$20,000	-$71,000
Supplemental Rate for Community Treatment Facilities	-$1,200,000	-$1,200,000
AIDS Counseling	-$50,000	-$150,000
Caregiver Resource Centers	-$400,000	-$1,200,000
Cathie Wright Technical Assistance Center	-$10,000	-$40,000
Early Mental Health Initiative	--	-$1,634,000
DMH Headquarters Administration	-$722,000	-$1,948,000
Governor's Proposed Reductions of 10 percent	**-$17,492,000**	**-$76,843,000**

Legislature's Special Session Actions. After numerous hearings convened by both the Senate and Assembly, the Legislature took action to reduce the current-year shortfall of $3.3 billion and converted it into a little over $1 billion in General Fund reserve.

In addition, the resulting projected budget year deficiency was reduced by $7 billion, leaving an estimated shortfall of almost $8 billion at this time. In addition, the actions of the Legislature provided $8.6 billion in cash management solutions to enable the state to maintain its ability to pay its bills.

With respect to actions taken regarding the DMH budget, the Legislature adopted the following reduction proposals of the Governor, along with an LAO recommendation.

Actions Adopted by the Legislature in Special Session—Department of Mental Health

Program	Reduction for 2007-08	Reduction for 2008-09
Early and Periodic Screening, Diagnosis & Treatment	-$3,646,000	-$14,608,000
DMH Headquarters' Administration	$722,000	-$1,948,000
Caregiver Resource Center	-$400,000	
Cathie Wright Technical Assistance Center	-$10,000	
LAO—Reduce State Hospital Funding for SVPs	-$12,600,000	
Total Reduction in Special Session	**-$17,378,000**	**-$16,556,000**

Budget year issues included in the Special Session are to be discussed as part of the overall budget-year deliberations. Exceptions to this are issues that needed lead time for implementation or would be reduced on the natural due to action taken by the Legislature in the current year (such as the EPSDT adjustment).

The Legislature also adopted $292 million in the following *cash management* solutions as proposed by the Governor for programs administered by the Department of Mental Health. These actions were as follows:

- $200 million by delaying payment advance to County Mental Health Plans for Mental Health Medi-Cal Managed Care.
- $92 million by delaying payment advance to County Mental Health Plans for the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program.

(The "Vote Only" Calendar begins on the next page.)

B. ISSUES FOR "VOTE ONLY" *(Pages 5 through 8)*

1. Healthy Families Program Adjustments for Supplemental Mental Health

Issues: *First,* the Governor is proposing a 10 percent reduction of $71,000 (General Fund) for 2008-09 for supplemental mental health services provided to legal immigrant children. This proposed 10 percent reduction would result in a total reduction of $203,000 due to the 65 percent federal match received under this program (i.e., the federal State- Children's Health Insurance Program).

The Governor is targeting legal immigrant children for this reduction because this is the component of the program that receives General Fund support. Based on federal law, services provided to legal immigrant children under the HFP are not eligible for federal reimbursement. As such, the state provides a 35 percent General Fund match to County Mental Health Plans who provide a 65 percent match using their County Realignment Funds. (The funding relationship for this program are discussed further below in the background section.)

Second, the DMH is proposing an increase of $3.639 million ($76,000 General Fund and $3.563 million in Reimbursements) to reflect increased caseload and related technical adjustments. Total HFP expenditures for this portion of the program administered by the DMH are $48.1 million (total funds).

Background—What is the HFP and How are Supplemental Mental Health Services Provided? The Healthy Families Program provides health insurance coverage, dental and vision services to children between the ages of birth to 19 years with family incomes at or below 250 percent of poverty (with income deductions) who are not eligible for no-cost Medi-Cal.

The enabling Healthy Families Program statute linked the insurance plan benefits with a supplemental program to refer children who have been diagnosed as being seriously emotionally disturbed (SED). The supplemental services provided to Healthy Families children who are SED can be billed by County Mental Health Plans to the state for a federal Title XXI match. Counties pay the non-federal share from their County Realignment funds (Mental Health Subaccount) to the extent resources are available. With respect to legal immigrant children, the state provides 65 percent General Fund financing and the counties provide a 35 percent match.

Under this arrangement, the Healthy Families Program health plans are required to sign Memoranda of Understanding (MOU) with each applicable county. These MOUs outline the procedures for referral. It should be noted that the health plans are compelled, as part of the required Healthy Families benefit package and capitation rate, to provide certain specified mental health treatment benefits *prior* to referral to the counties.

Subcommittee Staff Recommendation—Reject 10 Percent Reduction, and Adopt Caseload Adjustments. It is recommended to **(1)** reject the Governor's 10 percent reduction and, **(2)** adopt the proposed caseload adjustments for the budget year. The 10 percent reduction would directly affect access to services for children with serious emotional disorders and it is important to maintain a comprehensive program.

2. Closure of Children's School at Metropolitan State Hospital

Issue. The DMH proposes a reduction of $3.8 million ($3.4 million Proposition 98/General Fund) due to the closing of the adolescent program at Metropolitan State Hospital. The adolescent program is no longer operating at Metropolitan due to expanded options in the community for children with severe mental illness. Therefore, these funds which had been used for education purposes are no longer necessary.

Subcommittee Staff Recommendation—Adopt. No issues have been raised with this proposal.

3. Implementation of Foster Care Children Specialty Mental Health

Issue. The DMH is requesting an increase of $188,000 ($94,000 General Fund and $94,000 Reimbursements) to establish two positions (one for 18-months) to implement SB 785 (Steinberg), Statutes of 2007. The two positions include a Staff Mental Health Specialist and an Associate Mental Health Specialist.

The DMH is requesting these two positions to implement provisions of the legislation, including (1) development of informational program materials; (2)identifying training needs; (3) developing standardized contracts; (4) modifying various documents; and (5) working with the federal Center for Medicare and Medicaid Services (CMS) on certain federal requirements.

Subcommittee Staff Recommendation—Modify Request. No issues were raised regarding this request. However, it is recommended to eliminate the General Fund component and instead, utilize $94,000 from the Mental Health Services Account which is provided to the Department of Mental Health for administrative purposes. The functions of these staff positions would further the provision of mental health services and are not supplanting existing General Fund support. In addition, it is recommended to make both of these positions limited-term (18-months each).

4. Governor's Reduction to the Early Mental Health Initiative (EMHI)

Issue. The Governor proposes a $1.634 million (Proposition 98 General Fund) reduction, or over 10 percent, to the Early Mental Health Initiative (EMHI) for total program expenditures of $13.366 million (Proposition 98 General Fund) for 2008-09.

EMHI grants are awarded on a competitive basis for three years to public elementary schools to provide services to students in K through Third grades who are experiencing mild to moderate school adjustment difficulties. School sites must also contribute funding towards their individual program.

Background—What is EMHI? EMHI was established in 1991 through Assembly Bill 1650. It is designed to enhance the social and emotional development of young students and to minimize the need for more costly services as they mature. Students from Kindergarten through Third Grade who are enrolled in public schools are the target audience.

The EMHI has been independently evaluated and data is available for 7 years of the program (for both pre and post data participants). These findings indicate that the recipients of EMHI-funded services make significant improvements in social behaviors and school adjustment as evaluated by both teachers and school-based mental health professionals.

Subcommittee Staff Recommendation—Adopt Governor's Reduction. Due to the shortfall in the Governor's budget regarding the availability of Proposition 98 General Fund support, it is recommended to adopt the Governor's reduction proposed for this program.

5. Adjustments for the Forensic Conditional Release Program (CONREP)

Issue. The budget proposes a total increase of $1.792 million (General Fund) for CONREP. in 2008-09 for total expenditures of $26.1 million (General Fund). This total funding level supports a caseload of about 725 patients. Expenditures are for outpatient treatment services, ancillary services, supervision, State Hospital liaison visits, transitional residential facility contracts, and non-caseload services. The CONREP is budgeted under the DMH's state support item because it is a contract.

Of the requested increase, $846,000 (General Fund) is for local providers serving forensic patient populations. The DMH states this amount is needed to provide for the actual annual clinical care costs up to, but not to exceed, 4 percent per year. Of the $846,000 increase, $709,000 is proposed to maintain the current caseload of 725 patients and $137,000 to maintain contracts with facilities participating in the "State Transitional Residential" Program.

The remaining $946,000 (General Fund) requested amount is providing services to four Sexually Violent Predators *court-ordered* released into the community for outpatient treatment and supervision.

According to the DMH, CONREP costs range from $23,000 to $30,000 annually per patient and are therefore, substantially less expensive than a State Hospital bed. When appropriate, CONREP provides an immediate means to move individuals out of the State Hospitals, thereby making the existing State Hospital beds more available for more involved patients as needed.

Background—CONREP. This program provides for **(1)** outpatient services to patients into the Conditional Release Program (CONREP) via either a court order or as a condition of parole, and **(2)** hospital liaison visits to patients continuing their inpatient treatment at State Hospitals who may eventually enter CONREP. **The patient population includes:** (1) Not Guilty by Reason of Insanity, (2) Mentally Disordered Offenders, (3) Mentally Disordered Sex Offenders, and (4) Sexually Violent Predators.

The DMH contracts with counties and private organizations to provide these mandated services in the state, although patients remain DMH's responsibility per statute when they are court-ordered into CONREP community treatment and supervision. The program as developed by the DMH includes sex offender treatment, dynamic risk assessments, and certain screening and diagnostic tools. Supervision and monitoring tools include Global Positioning System (GPS), polygraphs, substance abuse screening, and collaboration with law enforcement.

In addition to the services provided through the contracts as referenced above, the DMH administers the State Transitional Residential Program (STRP) which is another component of the CONREP continuum of care. This program operates 40 beds located in three licensed non-medical facilities providing a highly structured residential program assisting patients' transition from the State Hospital system to the community. Typically, patients in a STRP facility stay about three to four months.

Subcommittee Staff Recommendation—Approve. No issues have been raised with this proposal. It is recommended to approve the increase for the budget year.

C. ISSUES FOR DISCUSSION-- State Administration, & Community Issues

1. State Administration—Internal Control Review of DMH Identifies Concerns

Issue. The Office of State Audits and Evaluations (OSAE) within the Department of Finance conducted an "internal control review" of the Department of Mental Health (DMH). The findings of this review were publicly provided to the DMH and Legislature on January 31, 2008. The OSAE review was conducted during the period of from July 2007 through December 2007.

This internal review encompassed the DMH headquarters, as well as the State Hospitals administered by the DMH. **The OSAE identified areas where managerial and fiscal controls are not in place or working as intended.**

Overall, the OSAE determined the DMH controls to be weak. Their review identified weak budgetary controls, lack of communication and coordination, and weak fiscal oversight among units. They note that due to weak fiscal oversight, the DMH has not effectively or timely prevented or detected budgeting and accounting errors which have resulted in lost opportunities to fund critical needs.

OSAE noted that to ensure a high degree of fiscal integrity, the DMH needs to institute organizational and programmatic budgets, proper accounting structures and allocation methods, document and communicate fiscal processes and control activities, and monitor mechanisms at all levels within the department.

The following *key* deficiencies were noted by OSAE:

- Organizational and programmatic budgets are not developed. Without this level of detail, DMH is prevented from adequately prioritizing activities, promoting responsible resource allocation, and establishing fiscal accountability.

- Written procedures do not exist over the DMH's budget development process for the State Hospitals. This includes policies and procedures for developing State Hospital patient population projections, the Sexually Violent Predator (SVP) evaluations' estimates, and distribution of budget allocations to State Hospitals from the DMH headquarters office.

- A method to track and account for costs in the State Hospitals related to the federal Civil Rights for Institutionalized Person's Act (CRIPA) was not planned or developed, hampering the State Hospitals' ability to adequately account for, control, and monitor expenditures. In an effort to exhaust the CRIPA funding, the DMH Budget Office provided direction but not until year end.

- Licensing and Certification activities within the DMH totaling $357,000 were incorrectly charged to the General Fund instead of the appropriate special fund (i.e., fee supported).

- Significant control weaknesses exist in the accounts receivable function. Inadequate controls over accounts receivable at DMH have a negative impact on cash flow and DMH's ability to meet its obligations as they become due.

- Contract controls are not in place or working as intended to ensure that DMH's best interests are served. Without adequate contracting controls, the propriety and legality of contracts cannot be assured, and timely delivery of quality goods and services may be compromised.

  For example, the same staff initiating the contract request is also responsible for evaluating, ranking, and ultimately selecting the proposals. For Information Technology contracts, the project manager requesting the contract selects the consultant, monitors performance, and indirectly approves payment by certifying the consultant's timesheet records.

- System development and Information Technology (IT) project management procedures are outdated. OSAE states that DMH's management does *not* meet the state's minimum requirements for planning, tracking, risk management, and communication. *Without adequate project management practices, the DMH is at risk that IT projects will neither be completed timely and within budget, nor accomplish the project objectives.*

  OSAE identified the IT project management requirements *not* meet to include the following:

  - Development and maintenance of project cost estimates for *all* projects.
  - Recording of actual costs by cost category and comparing actual costs to budgeted amounts.
  - Tracking and reporting of work plan activities, schedules, and milestones for *all* projects.
  - Regular status reporting to key stakeholders, including budgets and milestones.

  In addition, the department's IT Risk Management Plan was not updated or certified to the DOF. Further, OSAE stated that access and programming rights to systems, applications and files are not adequately controlled.

- Controls are not in place to ensure adequate safeguarding of public assets. Policies and procedures for reviews, approvals, and reconciliations are not documented. Encumbrance, disbursement, and adjustment postings to the general ledger are not reviewed for accuracy and propriety. Financial statements are unreliable.

For example, American Express credit card payments are made prior to verification and approval from program staff. This lead to $7,154 in fraudulent charges in December 2006 and January 2007. For example, of ten accrual transactions totaling $8.9 million, five were not supported by invoices and two were overstated, resulting in an overstatement of $1.9 million.

For example, prior-year financial statement accruals in the amount of $796,868 were not reversed and were reported again in the 2006-07 financial statements. For example, the Director's signature plate, used for signing department checks for various services, was not being removed from the check signing machine after checks were signed; therefore, fraudulent checks could have been issued. For example, costs claimed for Sexually Violent Predator (SVP) patients placed in the community by a contractor were not being matched against the patient's approved plan of expenditures prior to payment.

The OSAE provided the DMH with a series of recommendations (numerous pages) to assist the DMH management in focusing attention on strengthening internal controls, preventing and mitigating risks, and improving operations. **Further, to strengthen controls, OSAE recommended for the DMH to develop a plan to address the observations and recommendations noted in the report.**

Subcommittee Staff Comment and Recommendation. This OSAE report identifies fundamental concerns with core fiscal and administrative functions at the DMH. The DMH was recently re-organized (in November 2007) and has hired some new key personnel to address the layers of issues identified here. However, given the magnitude of the issues identified, it will take significant efforts on the part of the department to fully remedy them and to restore integrity and trust in the operations of the department.

With respect to budget issues, the following recommendations are proposed. *First*, the DMH should identify General Fund savings within the Headquarters office that can be achieved from re-tooling efforts. The OSAE identifies several areas where General Fund moneys were inappropriately utilized. With improved controls, savings should be achieved. The DMH should report back to the Subcommittee on April 28th as to this proposed savings level.

Second, some of the issues identified by OSAE pertain to the State Hospitals and their fiscal controls, including budget estimates. Therefore, it is also recommended for the Subcommittee to adopt placeholder trailer bill language, to be crafted by Subcommittee staff, the Administration and LAO, to require the DMH to provide the DOF and Legislature with a comprehensive budget estimate package on the State Hospitals.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Specifically what *key* and immediate steps have been taken to address these issues.

2. DMH, What amount of administrative savings can be identified from these efforts?

2. Status Update—Early and Periodic Screening, Diagnosis & Treatment Program

Issue. As highlighted in the background section below, significant issues were raised through the budget Subcommittee deliberations last year regarding the DMH's management and administration of the EPSDT Program.

Due to these management issues, the budget incurred a significant deficiency from prior-years claims not being addressed, as well as a federal audit whose results are still pending at this writing.

As part of its actions through the budget process, the Legislature requested the Office of State Audits and Evaluations (OSAE) to conduct a managerial review of the program to identify areas for correction.

Summary of OSAE Reports (Two Reports). The Office of State Audits and Evaluations (OSAE) within the Department of Finance conducted (1) an analysis of the estimating methodology used by the DMH for projecting EPSDT expenditures; and (2) a review of the DMH's fiscal processes involved in the payment of local assistance claims for the EPSDT Program and for Mental Health Managed Care (i.e., payments made to County Mental Health Plans for reimbursement of services provided).

With respect to the EPSDT estimating methodology, the DMH has made changes to analytically improve the forecast and will be working to establish an "Estimates" section within the department to conduct further work.

Regarding the OSAE review of the overall DMH payment system, among other things, the OSAE determined that:

- Program governance between the DMH and Department of Health Care Services (DHCS) is weak and unclear. Generally, governance over the program is fragmented, decentralized and ineffective.
- The County Mental Health Plans are not being paid timely due to problems with the DMH claims reimbursement system;
- DMH's claims reimbursement system, including the information system, is outdated and problematic.
- DMH is at continued risk of over billing the federal government because of insufficient corrective actions in response to previous billing errors. Additional measures must be taken to ensure that federal financial participation claims are accurate.
- DMH has not required the County Mental Health Plans to fully implement federal HIPAA requirements regarding patient records and processing.

Background on Previous Concerns of the Legislature. Significant issues were raised through budget Subcommittee deliberations last year regarding the DMH's management and administration of the EPSDT Program.

These issues intertwined and included the following key items:

- A significant deficiency request from the DMH for prior year claims from the counties.
- A DMH accounting error of $177 million that occurred in 2005-06.
- A need to significantly modify the DMH's claims processing (billing) system.
- Use of inaccurate methodologies for estimating program expenditures.
- A lack of communication between the DMH and the Department of Health Care Services (Medi-Cal agency) regarding program operations.
- Concerns with double billing the federal government for Medicaid (Medi-Cal) expenditures.

Budget Act of 2007 Actions. Due to the severity of the issues, the Legislature requested the Office of Statewide Audits and Evaluations (OSAE) within the Department of Finance to conduct a review of the DMH's methodology for calculating EPSDT budget estimates and another review of their overall systems for claims processing.

In addition, agreement was reached with the Administration to reimburse County Mental Health Plans for past-year claims of $260.2 million (General Fund) over a three-year period. About $86.7 million (General Fund) will be provided each year, commencing with the current-year, for this reimbursement.

Finally, the DMH was directed to work with the Legislature to develop an appropriate administrative structure for the program for implementation during 2008-09, including enacting legislation. It should be noted the Administration is working with the Legislature on this issue presently (i.e., Assembly Bill 1780 (Galgiani), as introduced).

Background--How the EPSDT Program Operates. Most children receive Medi-Cal services through the EPSDT Program. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) recipients under age 21 any health or mental health service that is medically necessary to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, including services not otherwise included in a state's Medicaid (Medi-Cal) Plan. Examples of mental health services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

Though the DHS is the "single state agency" responsible for the Medi-Cal Program, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH). Further, County MHPs are responsible for the delivery of EPSDT mental health services to children

In 1990, a national study found that California ranked 50th among the states in identifying and treating severely mentally ill children. Subsequently due to litigation (T.L. v Kim Belshe'

1994), the DHS was required to expand certain EPSDT services, including outpatient mental health services. The 1994 court's conclusion was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated.

County MHPs must use a portion of their County Realignment Funds to support the EPSDT Program. Specifically, a "baseline" amount was established as part of an interagency agreement in 1995, and an additional 10 percent requirement was placed on the counties through an administrative action in 2002.

Subcommittee Staff Comment and Recommendation. The DMH has taken the OSAE report recommendations and is working through the issues comprehensively with the County Mental Health Plans, stakeholder community, and other involved parties, including the Department of Health Care Services. Again, due to the layers of issues identified, it will likely take some time for the DMH to resolve them.

With respect to improving fiscal integrity, it is recommended for the Subcommittee to adopt placeholder trailer bill language, to be crafted by Subcommittee staff, the Administration and LAO, to require the DMH to provide the DOF and Legislature with a comprehensive budget estimate package on the EPSDT Program.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. **DMH**, Please provide a *brief* update regarding *key* changes that have been accomplished and *key* items that still need to be accomplished.

2. **DMH,** Has the federal government provided the Administration with any recent updates regarding their federal audit of the EPSDT program? Is there *any* potential for federal audit exceptions that *may* result in state General Fund costs?

3. Proposed Reductions to Early and Periodic Screening, Diagnosis & Treatment

Issues. The Governor proposes significant reductions to the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program through the Special Session and for the budget year.

These proposed reductions and their estimated current-year and 2008-09 implications are shown in the table below. Since the EPSDT Program receives a 50 percent federal match, total reductions for the current year are $13.4 million (total funds), and for 2008-09 are $92.7 million (total funds).

Governor's Special Session General Fund Reductions to EPSDT

Proposal	Current Year (General Fund)	2008-09 (General Fund)
1. Require a Six-Month Reauthorization for Day Treatment Services	--	-$19,448,000
2. Reduce Schedule of Maximum Allowances (rates)	-$3,069,000	-$12,280,000
3. Elimination of COLA (adopted by Legislature in Special Session)	-$1,878,000	-$7,516,000
4. Reduce Costs by increased DMH Monitoring (adopted by Legislature in Special Session)	-$1,768,000	-$7,092,000
Governor's Total Proposed Reductions	**-$6,715,000**	**-$46,336,000**

Though these issues were discussed in the Senate Budget & Fiscal Review Committee on February 4th, additional information has been obtained for discussion purposes.

The two proposals from the Governor which remain before the Legislature, items 1 and 2 from the table above, are discussed below.

- ***1. Require a Six Month Reauthorization for Day Treatment Services.*** Under this proposal, the DMH would require County Mental Health Plans (County MHPs) to review requests for EPSDT services submitted by Day Treatment providers that exceed six-months of treatment for a child. The DMH is seeking *emergency regulation authority* to implement this proposal

  Of the 8,000 children annually who receive Day Treatment services under the EPSDT Program, almost half of them are children who are also in Foster Care.

  The DMH estimates this would reduce expenditures by $38.8 million ($19.4 million General Fund) in 2008-09. The basis for this DMH estimate is shown below:

  - 8,000 children with severe emotional disturbances receive Day Treatment services and of these children about one-third, or 2,670 children, receive these services for more than six-months.
  - Of the 2,670 children, the DMH assumes 75 percent or 2,003 children would no longer require Day Treatment services.

Subcommittee staff is concerned with this proposal as presented for several reasons.

First, the proposal would eliminate over 2,000 children with severe emotional disturbance from receiving Day Treatment services. If from a clinical perspective these children no longer require Day Treatment services, then they indeed do not require the services.

However, the DMH has *not* provided any policy or clinical rational as to why 75 percent of these children, many of whom are in Foster Care, would no longer need Day Treatment services. As such, children would either be dropped from a program they need, *or* a General Fund savings level is being proposed that may not be realistically achievable.

If the intent of the DMH is that these 2,000 children would transition to local services supported with Proposition 63 Funds (Mental Health Services Act Funds), then the DMH needs to make clear how these children would be appropriately transitioned. In addition, if services other than Day Treatment services are more clinically appropriate for a particular child, then the County MHP should be utilizing the clinically appropriate service. Any shifting of services should be identified through the DMH oversight of the EPSDT Program and then reflected in any budgetary trend line. Therefore, it is unclear as to the intention of the proposal.

The DMH contracts with County MHPs, who in turn, contract with providers of Day Treatment services. There are several "DMH Letters" which have been issued over the past several years regarding the provision of Day Treatment services. As such, it is unclear as to how this proposed DMH budget issue interacts with the existing DMH contract with the County MHPs, or existing DMH issued Letters or program regulations.

Second, County MHPs are *already* required by the DMH to require providers of Day Treatment services to request payment authorization for continuation of Day Treatment services at least every three months and at least every six months. As such, it is unclear what further requirements the DMH intends to place on County MHPs or providers of Day Treatment services. If more oversight of the existing practice is necessary, the DMH can proceed with this aspect through their expanded "EPSDT monitoring" efforts which was approved by the Legislature.

Third, the DMH is seeking emergency regulation authority for this purpose. This is disconcerting for it would provide the DMH with substantive authority with little oversight by the Legislature. Further, the use of emergency regulation authority without any context as to how the policy and programmatic framework is to be designed is not constructive.

- ***2. Reduce Schedule of Maximum Allowances (rates).*** This Governor's proposal would permanently reduce the "Schedule of Maximum Allowances" by five percent. The Schedule of Maximum Allowances are upper limit rates, established for each type of services, for a unit of service (such as a patient day or minutes for other program services. In other words, the reimbursement for services cannot exceed these upper limits.

  The DMH states that this proposal would reduce rates by $24.6 million ($12.3 million General Fund) for 2008-09.

  It should be noted that the Legislature did adopt the Governor's proposal to eliminate the annual COLA provided to the Schedule of Maximum Allowances. This DMH proposal would lower this amount even further.

  The DMH states that they do not believe this reduction will result in a direct reduction in the number of clients served or a loss of medically necessary services to clients. They state that reductions are more likely to take the form of a reduction in the cost per client as the County Mental Health Plans implement more stringent reviews of medical necessity for specialty mental health services, increase reviews of authorizations for services and possibly reduce payments to providers.

Special Session Action—Certain Actions Taken. Due to fiscal constraints, the Legislature adopted the Governor's proposals to: (1) establish a unit within the DMH to monitor EPSDT claims; and (2) eliminate the Cost-of-Living-Adjustment using the federal home health market basket which is applied to the Schedule of Maximum Allowances used for rates.

Both of these actions are administrative in nature and did not require state statutory change. It is assumed these two actions will reduce expenditures by $7.3 million ($3.6 million General Fund) in the current-year and by $29.2 million ($14.6 million General Fund) in 2008-09.

Background—Summary of Governor's Proposed 2008-09 for EPSDT. The table below displays the budget of the EPSDT Program with the Governor's proposed Special Session adjustments. The DMH notes that General Fund expenditures are estimated to increase by $51.4 million for 2008-09 in the baseline budget (prior to any reductions), as compared to the current-year.

Governor's Budget for 2008-09	General Fund	Total Funds (General Fund + Federal Fund)
Governor's 2008-09 Baseline	$501,836,000	$1,016,715
Governor's Proposed Reductions	-$46,336,000	-$92,672,000
Governor's Proposed Budget	**$455,500,000**	**$924,043,000**

County Realignment Funds of $96.8 million are also estimated to be expended on EPSDT services but these revenues do not flow through the state's budget process and are not reflected in the figures above.

Background--How the EPSDT Program Operates. Most children receive Medi-Cal services through the EPSDT Program. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) recipients under age 21 any health or mental health service that is medically necessary to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, including services not otherwise included in a state's Medicaid (Medi-Cal) Plan. Examples of mental health services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

Though the Department of Health Care Services (DHCS) is the "single state agency" responsible for the Medi-Cal Program, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH). Further, County MHPs are responsible for the delivery of EPSDT mental health services to children

In 1990, a national study found that California ranked 50th among the states in identifying and treating severely mentally ill children. Subsequently due to litigation (T.L. v Kim Belshe' 1994), the DHCS was required to expand certain EPSDT services, including outpatient mental health services. The 1994 court's conclusion was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated. The state has lost several lawsuits and is required to expand access to EPSDT mental health services.

County MHPs must use a portion of their County Realignment Funds to support the EPSDT Program. Specifically, a "baseline" amount was established as part of an interagency agreement in 1995, and an additional 10 percent requirement was placed on the counties through an administrative action in 2002.

Subcommittee Staff Recommendation—Hold Open. It is recommended to hold this item open pending the receipt of additional information from the DMH, as well as constituency groups.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. **DMH**, Please briefly describe your proposal regarding the Six-Month Treatment Authorization Requirement. How would children be transitioned from services exactly?

2. **DMH**, Please briefly describe your proposal regarding the reduction to the Schedule of Maximum Allowances. How may this proposal affect access to services?

4. Proposed Adjustments to Mental Health Managed Care Program

Issue. The Governor proposes a total reduction of $47.6 million ($23.8 million General Fund), or 10 percent of the state General Fund support to the program, for the Mental Health Managed Care Program. Due to the loss of federal matching funds, the reduction equates to a 20 percent reduction overall.

The components of the Administration's proposal are shown in the table below. However, upon further clarification from the Administration, the DMH contends that the intent of this proposed reduction is really an "unallocated" reduction, and not elimination of the minor consent program or a rate reduction per say. According to the DMH they would leave the reduction up to each of the County Mental Health Plans on how it would choose to implement the reduction. In other words, each county would receive in essence, 10 percent less to work with. No trailer bill legislation is proposed.

Governor's Special Session General Fund Reductions to Mental Health Managed Care

Proposal	2008-09 (General Fund)	2008-09 (Total Funds)
1. Reduce Rates by 5 Percent	-$10,730,000	-$21,460,000
2. Eliminate Funding for Minor Consent	-$7,720,000	-$15,440,000
3. Eliminate Funding for Implementation of Federal Regulations	-$5,350,000	-$10,700,000
Governor's Total Proposed Reductions	**-$23,800,000**	**-$47,600,000**

Though these issues were discussed in the Senate Budget & Fiscal Review Committee on February 4th, additional information has been obtained for discussion purposes.

Background—How Mental Health Managed Care is Funded: Under this model, County Mental Health Plans (County MHPs) generally are at risk for the state matching funds for services provided to Medi-Cal recipients and claim federal matching funds on a cost or negotiated rate basis. County MHPs access County Realignment Funds (Mental Health Subaccount) for this purpose.

An annual state General Fund allocation is also provided to the County MHP's. The state General Fund allocation is usually updated each fiscal year to reflect adjustments as contained in Chapter 633, Statutes of 1994 (AB 757, Polanco). These adjustments have included changes in the number of eligibles served, factors pertaining to changes to the consumer price index (CPI) for medical services, and other relevant cost items. **The state's allocation is contingent upon appropriation through the annual Budget Act.**

Based on the most recent estimate of expenditure data for Mental Health Managed Care, County MHPs provided a 47 percent match while the state provided a 53 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

Background—Overview of Mental Health Managed Care: Under Medi-Cal Mental Health Managed Care psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists and some nursing services, are the responsibility of a single entity, the Mental Health Plan (MHP) in each county.

Full consolidation was completed in June 1998. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal government. Medi-Cal recipients *must* obtain their mental health services through the County MHP.

The Waiver promotes plan improvement in three significant areas—access, quality and cost-effectiveness/neutrality. The DMH is responsible for monitoring and oversight activities of the County MHPs to ensure quality of care and to comply with federal and state requirements.

Background—Previous Rate Reduction to Mental Health Managed Care Program. The Mental Health Managed Care Program, along with rates paid to other Medi-Cal Program providers, was reduced by 5 percent for a two-year period (from 2003 to 2005) as contained in legislation. Though the rates paid to providers of health care services under the Medi-Cal Program were restored in 2005, efforts to restore the five percent for this program have not succeeded. In addition, adjustments for certain medical cost-of-living-adjustments have not been provided by the state to County MHPs since 2000.

The Subcommittee is in receipt of a letter from several constituency groups expressing concern with the Governor's proposed reductions. Among other things, they note that although the Mental Health Services Act (i.e., Proposition 63) provided new revenues for mental health services, revenues from this act cannot be used to supplant existing programs or backfill for General Fund support.

Subcommittee Staff Recommendation—Hold Open. It is recommended to hold this issue open pending receipt of any additional clarifying information from the DMH and constituency groups. Further, it is unclear to Subcommittee staff on what direction the DMH would provide to County Mental Health Plans or community mental health providers via "DMH Letters" or the like on how they would need to implement this reduction if the Legislature were to adopt it.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please clarify the Governor's proposed reduction and how the DMH would in fact administer the reduction if adopted.
2. DMH, In your view, would this reduction result in reduced access to services at the local level?

5. Community Treatment Facilities

Issue. The Governor proposes to eliminate the state's share of a supplemental rate paid to Community Treatment Facilities which equates to a reduction of $1.2 million General Fund).

This issue was discussed before the full Senate Budget & Fiscal Review Committee on February 4th. Due to the length of this hearing, public testimony was abbreviated. No action was taken in the Special Session on this issue.

Background on Community Treatment Facilities. Community Treatment Facilities (CTFs), as established in statute, provide secured residential care for the treatment of children diagnosed as being seriously emotionally disturbed (SED). These are locked facilities and provide intensive treatment. Generally, CTFs were created as an alternative to out-of-state placement and state hospitalization for some children. The DMH and Department of Social Services have joint protocols for the oversight of these facilities.

The Budget Act of 2001 and related legislation provided supplemental payments to CTFs. These supplemental payments consist of both state (40 percent) and county (60 percent) funding. There are four CTFs in CA.

Elimination of this rate would likely shift costs to counties, or result in fewer children being served, or result in placing children in more expensive juvenile facilities.

Subcommittee Staff Recommendation—Hold Open. It is recommended to hold this issue open pending receipt of any additional information.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. **DMH**, Please briefly describe the Governor's proposed reduction for the budget year.

6. California Caregiver Resource Centers

Issue. The Governor proposes a 10 percent reduction to the CA Caregiver Resource Center system which includes a $400,000 (General Fund) reduction in the current year and a $1.2 million (General Fund) reduction for 2008-09. The program was presently funded at $11.7 million (General Fund).

This issue was discussed before the full Senate Budget & Fiscal Review Committee on February 4th. Due to the length of this hearing, public testimony was abbreviated.

Special Session Action—Current Year Reduced. Due to fiscal constraints, the Legislature adopted the Governor's 10 percent reduction of $400,000 (General Fund) for the current year. This action reduced the current-year appropriation to $11.3 million (General Fund).

Background. The CA Caregiver Resource Center system provides assistance to about 13,000 families who are caring for an adult family member at home. Assistance includes consultation and care planning, counseling and support planning groups, education and training, legal and financial planning, respite care, and other mental health interventions.

The DMH contracts with 11 agencies statewide for these services. The availability of this assistance assists to delay if not eliminate the admission of family members to long-term care institutions.

Subcommittee Staff Recommendation—Hold Open. It is recommended to hold this issue open pending receipt of any additional information.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. **DMH**, Please briefly describe the Governor's proposed reduction for the budget year.

D. ISSUES FOR DISCUSSION – State Hospitals

BACKGROUND

Overall Budget for the State Hospital System. The expenditures for the State Hospital system have increased exponentially in the past several years from $811.6 million in 2004 to over $1.312 billion proposed for 2008-09, including state administrative support. **This represents an increase of about $500 million, or almost 62 percent in only four-years.** The State Hospitals are primarily funded with General Fund support.

Expenditures of **$1.312 billion,** including state support, are proposed to operate the five State Hospitals and two psychiatric units which serve a projected total population of 6,448 patients for 2008-09.

The proposed budget for 2008-09 reflects an increase of $129 million ($123 million General Fund and $6 million County Realignment Funds) as compared to the Budget Act of 2007. Most of the proposed increase is due to **(1)** employee compensation adjustments required by the Coleman Court; and **(2)** compliance with the continued implementation of a settlement agreement with the federal government regarding the Civil Rights for Institutionalized Persons Act (CRIPA).

The Governor did *not* reduce the State Hospital system in his proposed across-the-board 10 percent reduction due to potential concerns with health and safety issues.

Overall Background and Funding Sources. The department directly administers the operation of five State Hospitals—Atascadero, Metropolitan, Napa, Patton, and Coalinga. In addition, the DMH administers acute psychiatric programs at the California Medical Facility in Vacaville, and the Salinas Valley State Prison.

Patients admitted to the State Hospitals are generally either (1) civilly committed, *or* (2) judicially committed. As structured through the State-Local Realignment statutes of 1991/92, County Mental Health Plans (County MHPs) contract with the state to purchase State Hospital beds. County MHPs reimburse the state for these beds using County Realignment Funds (Mental Health Subaccount).

Judicially committed patients are treated solely using state General Fund support. The majority of the General Fund support for these judicially committed patients is appropriated through the Department of Mental Health (DMH).

Classifications of Penal Code Patients. Penal Code-related patients include individuals who are classified as: **(1)** not guilty by reason of insanity (NGI), **(2)** incompetent to stand trial (IST), **(3)** mentally disordered offenders(MDO), **(4)** sexually violent predators (SVP), and **(5)** other miscellaneous categories as noted.

The DMH uses a protocol for establishing priorities for penal code placements. This priority is used because there are not enough secure beds at the State Hospitals to accommodate all patients. This is a complex issue and clearly crosses over to the

correctional system administered by the CA Department of Corrections and Rehabilitation (CDCR). The DMH protocol is as follows:

1. Sexually Violent Predators have the utmost priority due to the considerable public safety threat they pose.
2. Mentally Disordered Offenders have the next priority. These patients are former CDCR inmates who have completed their sentence but have been determined to be too violent to parole directly into the community without mental health treatment.
3. *Coleman v. Schwarzenegger* patients must be accepted by the DMH for treatment as required by the federal court. *Generally* under this arrangement, the DMH must have State Hospital beds available for these CDCR patients as required by the Special Master, J. Michael Keating Jr. If a DMH bed is not available the inmate remains with the CDCR and receives treatment by the CDCR.
4. Not Guilty by Reason of Insanity is the next priority.
5. Incompetent to Stand Trial is the last priority. It should be noted that there are about 250 to 300 individuals who are incompetent to stand trial who are presently residing in County jails due to the shortage of beds within the State Hospital system.

(Action items begin on the next page.)

1. Proposed Baseline Patient Population at the State Hospitals

Issue. The DMH proposes **two adjustments** to the State Hospital's budget due to estimated changes in the patient population. The first adjustment pertains to current-year funding (2007-08) and the second adjustment pertains to budget year funding (2008-09).

***First*, the DMH proposes a current-year reduction of $7.4 million (General Fund) based on a reduced patient caseload of 147 patients (after comparing September 30, 2007 actual caseload to budgeted caseload).** This methodology is applied to certain patient caseloads, including Incompetent to Stand Trial, Not Guilty by Reason of Insanity, Mentally Disordered Offender, and Other Penal Code.

The DMH uses a different methodology for the Sexually Violent Predator (SVP) caseload. For calculating the SVP caseload, the DMH uses a projection rate of 4 percent for SVP commitments (i.e., referrals that would result in a commitment to a State Hospital). The Legislative Analyst's Office (LAO) has questioned this percentage level in the past as being too high of a percentage for actual commitments.

Therefore, based on an LAO analysis of actual SVP patient population data, the Legislature reduced the State Hospital's current-year funding by $12.6 million (General Fund) in the Special Session. This reduction is in addition to the DMH's reduction of the $7.381 million (General Fund).

Second, the DMH proposes an increase of $23.9 million (General Fund) based on an increase in patient population of 470 patients, for a total of 6,448 patients for 2008-09 (estimated ending population as of June 30, 2009). As noted in the chart below, most the DMH proposed increase is attributable to projected increases in the SVP caseload and the Medically Disordered Offenders (MDO) caseload.

The proposed increase of $23.9 million (General Fund) would be used to hire 243.7 Level-of-Care staff for treatment of the increased caseload.

Summary Chart of the Overall State Hospital Population. As noted in the table below, about 92 percent of the beds are designated for penal code-related patients and about 8 percent are to be purchased by the counties, primarily by Los Angeles County.

DMH State Hospital Caseload Summary Projection *(DMH Estimate)*

Category of Patient	Actual Census (March 5th)	Current Year Caseload (Revised) (Ending June 30)	Budget Year Caseload (Ending June 30)	Difference Over Current Year
Sexually Violent Predators **Special Session Reduced**	700	867 ***Revised* to 739**	1,227	360 *Revised* to 488
Medically Disordered Offenders	1,210	1,258	1,360	102
Not Guilty by Reason of Insanity	1,209	1,248	1,238	-10
Incompetent to Stand Trial	1,095	1,133	1,151	18
Penal Code 2684s & 2974s (Referred by CDCR)	196	782	782	0
Other Penal Code Patients (various)	131	118	118	0
Juvenile Justice	8	30	30	0
SUBTOTAL-- Penal Code-	**4,549**	**5,436**	**5,906**	470 *Revised* to 598
County Civil Commitments	503	542	542	0
TOTAL PATIENTS	**5,052**	**5,978**	**6,448**	**470** ***Revised* to 598**

Legislative Analyst's Office (LAO) Recommendation—Reduce Estimate for SVP Caseload. As previously noted, the LAO believes the DMH has over estimated the SVP caseload in both the current-year and budget year. Specifically, the LAO notes the historical growth (from 1999 to January 2008) rate for the SVP committed caseload is 47 patients (average year-to-year increase).

As of March 2008, the SVP caseload at the State Hospitals was 700 patients. Yet the DMH was projecting a total caseload of 867 patients in the current year. Adoption of the LAO recommendation during the Special Session reduced the appropriation level to provide for a total of 739 total patients as of June 30, 2008. This level of funding for the current-year may likely need to be at the May Revision as well.

For 2008-09, the DMH is projecting an SVP caseload of 1,227 patients or 488 patients higher than the revised current year adopted in Special Session. Clearly, this estimate is overstated.

As such, the LAO recommends reducing the budget-year request by $13.8 million (General Fund) to reflect an increase in caseload of 220 SVP patients. The LAO will also be analyzing the May Revision for any other adjustments in this area.

Subcommittee Staff Recommendation—Adopt Budget Bill Language and LAO Recommendation. It is recommended to: **(1)** adopt Budget Trailer Bill Language to have the DMH provide information to the Office of State Audits and Evaluation (OSAE) in order for the OSAE to review the methodology used to estimate State Hospital caseload and fiscal information; and **(2)** adopt the LAO recommendation to reduce by $13.8 million (General Fund) due to over estimating by the DMH. The proposed Budget Bill Language is as follows:

"It is the intent of the Legislature for the Office of State Audits and Evaluations (OSAE) to examine the methodology used by the Department of Mental Health in developing its budget estimate of the State Hospital system, including the projecting of all patient caseload categories, operating expenditures and related information used for this purpose. As part of its analysis, the OSAE will also review marginal costing information used for this population. The OSAE shall report its preliminary finding to the chairpersons of the fiscal committees of the Legislature, including the Joint Legislative Budget Committee, by **October 1,** 2008. To the extent that these preliminary findings are applicable, they shall be incorporated into the Department of Mental Health's State Hospital estimate for the Governor's Budget in January. The OSAE shall provide its final report to the chairpersons of the fiscal committees of the Legislature, including the Joint Legislative Budget Committee, by December 1, 2008. Any substantive findings in the final report that have not already been incorporated into the estimate process will be incorporated into the State Hospital estimate for the May Revision."

Questions. The Subcommittee has requested a response to the following questions:

1. DMH, Please provide a brief summary of the proposal.
2. LAO, Please provide a brief summary of the LAO recommendation.

2. Continued Activation of Coalinga State Hospital (CSH)

Issue. The DMH is requesting an increase of $8.031 million (General Fund) for 124.9 positions (all Non-Level of Care), including $184,000 for workforce recruitment. The DMH states these positions are needed to proceed with the continued activation of Coalinga State Hospital (CSH), based on the DMH's projected patient population overall and for Coalinga specifically.

Specifically, the DMH is requesting 124.9 positions in the following areas.

- Administrative Staff (12 positions). These 12 positions are requested for administrative support in the following areas: information technology; medical records; personnel; housekeeping; food services; and clinical laboratory.

- Patient Complaints and Appeals (2 positions). These positions—two analysts—would be used for processing patient complaints and appeals. One of these positions would be at the DMH Headquarters Office and the other at Coalinga.

- Expand Police Services (58.9 positions). The DMH states that with a projected increased patient population, five additional "Residential Recovery Units" need to be opened. There are presently 8 units in operation now.

  For these units to be opened, the DMH states that 58.9 positions are needed in the CSH police department. This would include: (1) 54 Hospital Peace Officers; (2) 0.6 Hospital Police Lieutenant; and (3) 4.3 Hospital Police Sergeants.

- Civil Rights for Institutionalized Persons Act (5 positions). The Wellness and Recovery Model is currently being implemented at CSH. This requires data collection, entry, tracking, analyzing and monitoring of patient information. The DMH states that 5 positions are needed for this effort due to increased projected patient caseload. These positions include 4 analysts and one support position.

- Patient Computer Program (3 positions). CSH has adopted a patient computer program to provide all patients equal access, as well as content-controlled access, to over 200 computers that will be installed during the next year. The DMH is requesting 3 positions for this effort, including installation, support, maintenance and repair.

- Dietetics (40 positions). The DMH is requesting an increase of 40 positions (28 Food Service Workers and 12 Food Service Technicians) for increased projected patient caseload.

- Communication Center (4 positions). The DMH is requesting an increase of 4 positions for communication dispatch purposes, including requests for facility entrance checks, opening and closing of gates when admitting patients, out-of-hospital medical appointments, court appearances, and conducting patient counts.

In addition to the position request, the DMH is requesting $184,000 for various workforce recruitment activities, including the following:

- $120,000 for radio, television, print media and online advertisements. This dollar figure assumes $10,000 per month for 12 months.
- $29,000 for recruitment conferences that are out-of-state.
- $7,000 for recruitment conferences that are in-state.
- $12,000 for postage for recruitment flyers and data base recruitment mailings;
- $12,000 for promotional advertising that show products regarding CSH and job contact information.
- $4,000 to pay for possible job candidates to travel and interview for difficult to recruit classes. This dollar amount assumes $500 per position..

Background—Coalinga State Hospital (CSH). CSH, a 1,500 bed facility located adjacent to the Pleasant Valley State Prison, admitted its first patients in September 2005. CSH is primarily to be used for housing and treating SVP patients, along with some other penal code-related patients, including Mentally Disordered Offenders (MDOs) and specified others. However, due to historic problems in attracting personnel to fill vacancies—both clinical and "non-level-of-care"--, Coalinga has been very slow to activate and to fill its beds with patients.

The DMH states that presently (as of March 5, 2008) Coalinga provides treatment to a total of 710 patients, of which 661 are SVP patients. With respect to the DMH's budget year estimate of patient population for Coalinga, the following table is provided.

Coalinga State Hospital Patient Projections

Patient Category	Actual Census (March 5, 2008)	Current Year Revised Population	Difference With Actual	Budget Year Estimated Population	Difference Revised CY to Budget
Sexually Violent Predator	661	781	-120	1,141	360
Mentally Disorder	0	66	-66	66	0
Penal Code2684 &2974	49	50	1	50	0
TOTALS	710	897	-187	1,257	360

As noted in this table, the DMH is projecting significant growth for 2008-09. They are estimating an increase of 360 patients above the revised current year estimate, and an increase of *547 patients* (187 plus 360), *or 77 percent*, above the actual population presently.

However as previously noted by the LAO, the actual commitments of SVPs to the State Hospital system is *not* occurring to the degree that was originally estimated by the DMH. The LAO states there has been an average years-to-year increase in SVP caseload of 47 patients, not the substantial increase as estimated by the DMH.

Subcommittee Staff Recommendation—Hold Open. It is recommended to hold this issue open pending the receipt of May Revision and updated information from the DMH.

First, it should be noted that CSH presently has 1,548.4 authorized positions at the facility (according to the DOF's Salary and Wages document) with 366.7 vacancies reported as of late December 2007. As such, General Fund resources have been appropriated by the Legislature which are currently not being expended. These funds (i.e., salary savings) should be adjusted overall at the May Revision when an updated State Hospital caseload is computed. These adjustments may reduce the need for some of these requested Non-Level-of-Care positions at Coalinga.

Second, the DMH states that many of the requested 124.9 new positions for Coalinga are needed to meet existing Non-Level-of-Care needs, including security and certain licensing and certification requirements. However, this information was not contained in the written materials (Budget Change Proposal) provided to the Legislature in January, nor had they been provided to the Subcommittee Consultant at the time of this writing.

Further, it is suggested for the LAO to review this proposal more comprehensively within the context of their SVP population estimate.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief update on the activation of Coalinga State Hospital.
2. DMH, Please provide a brief summary of the need for the budget request.

3. Request for Additional Administrative Resources for CRIPA Activities

Issues. The DMH is seeking **a total increase of $5.1 million** (General Fund) for **two areas** related to the implementation of the Civil Rights of Institutionalized Persons Act (CRIPA) Agreement. **In total, the DMH is requesting funding for 23 new positions (18 positions at Headquarters and 5 at the State Hospitals), plus information technology resources.** The CRIPA Agreement with the U.S. Department of Justice was effective in June 2006 and the DMH has been provided with some budget augmentations in past years to meet identified needs.

The two DMH requests related to CRIPA implementation are summarized below.

(A) More Headquarters Support--$1.9 million (General Fund) for 11 Positions, Travel and Training. The DMH requests funds for 11 positions, along with operating expenses which include training and travel costs. Of the $1.9 million request, $1.356 million is for personnel, $318,330 is for travel, and $195,000 is for training.

The DMH contends these positions are needed to demonstrate competency to assume oversight and monitoring roles currently filled by the Court Monitor and his team of experts prior to their *expected departure date of June 30, 2011*. DMH contends they must begin to hire staff no later than July of 2008 in order to have a full complement of staff and resources in place to take over the duties of the Court Monitor and his team.

Total Positions = 11	**Description of Requested Headquarters' Positions**
Staff Counsel III (Specialist)	Two-year limited-term position.
Senior Psychiatrist	To oversee all clinical activities falling in the domain of psychiatry and medical services and ensure implementation of standardized, evidence-based practices in accordance with CRIPA requirements.
Consulting Psychologist	To oversee all clinical activities related to psychology services at the State Hospitals.
Nurse Consultant	To oversee all clinical activities related to the delivery of nursing services at all State Hospitals and ensure implementation of standardized, evidence-based practices in accordance with CRIPA requirements.
Training Officer III	To plan and coordinate the standardization of training services at all State Hospitals for a variety of recovery-based treatment modalities including diagnosis-specific treatments and specialty area trainings.
Rehabilitation Therapist	To oversee all clinical activities regarding rehabilitation therapy services and ensure implementation of standardized, evidence-based best practices.
Clinical Social Worker	To oversee all clinical activities regarding social work services at the State Hospitals.
Research Analyst (two)	To provide programming and data support to Headquarters monitoring psychologist. These analysts will track data relevant to ensuring quality of care and assist in managing monitoring tools related to CRIPA performance measures.
Supervising Special Investigator	To conduct investigations in response to allegations of abuse and neglect, and monitoring investigations for quality assurance.
Senior Special Investigator	To provide assistance to the Supervising Special Investigator.

Along with these positions, the DMH is seeking **an increase of $318,330 for travel to support 18 headquarter positions** (i.e., the requested 11 positions above, and some existing positions). The DMH assumes a high level of travel for these positions since they will be located in Sacramento and will need to travel to the State Hospitals. The costs assume air travel, motel costs, car rental, gas, food and incidentals.

An increase of $195,000 in training costs is also requested. The DMH would contract out for training related to the Recovery Model of treatment, including diagnosis-specific treatment (26 skill set areas) and specialty area training.

(B) Information Technology: Increased Costs for More Headquarters' Staff, Development of WaRMSS and Data Staff at State Hospitals. This is the second piece of the overall requested CRIPA augmentation. The DMH is requesting an **increase of almost $3.3 million** (General Fund) in the budget due to a revision to their information technology project for CRIPA implementation called "Wellness and Recovery Model Support System" (WaRMSS).

According to the DMH, they submitted a revision to the WaRMSS project in November 2007. The requested funding change is $3.263 million (General Fund) more than the original estimate. **This is a 224 percent increase in expenditures.** The funding changes between their original project submittal and their revision is summarized in the table below.

Summary of Revised WaRMSS Information Technology Project

Category	Original 2008-09 Costs	Requested Funding Changes	Total Revised Expenditures
Staff (increase of 12 staff)	$465,600	$1,032,000	$1,497,600
Hardware	$0	$205,000	$205,000
Software	$31,600	$87,600	$119,200
Software Customization	$192,000	$1,412,800	$1,604,800
Project Oversight	$58,500	$153,800	$212,300
Data Center	$461,700	$159,000	$620,700
Telecommunications	$150,000	$0	$150,000
Other operating expenses	$93,000	$213,000	$306,000
Totals	**$1,452,400**	**$3,263,200 *increase***	**$4,715,600**

- Staff Costs (12 new staff). The DMH is requesting an increase of $1.032 million to **(1)** hire 7 new information technology staff at Headquarters to perform development, maintenance, quality assurance testing, and build new reporting databases; and **(2)** hire 5 new staff (two-year) at the State Hospitals to facilitate hands-on WaRMSS training.

  The DMH states the 7 additional staff at Headquarters would be used as follows:
  - Senior Programmer Analyst — Quality Assurance Testing
  - Associate Programmer Analyst — Quality Assurance Testing
  - Senior Programmer Analyst — Development and Maintenance
  - Staff Programmer Analyst — Development and Maintenance
  - Senior Programmer Analyst — Ad-hoc Database Administrator
  - Associate Programmer Analyst — Technical Writer

  The 5 new staff at the State Hospitals would be used to train existing staff on computer skills.

- Hardware, Software, and Software Customization. Combined together, these items reflect a requested increase of $1.7 million (General Fund). The hardware costs ($205,000 increase) include the purchase of 5 servers and 5 storage area networks. The software costs ($87,600 increase) consist of software licenses for new development staff and new storage area networks and servers at each hospital for the new reporting databases.

  Most of the increased costs are attributable to software customization ($1.4 million). This includes the following: (1) $594,000 for development contracts; (2) $465, 500 for quality assurance and testing; (3) $161,000 for business analyst contractor; and (3) $192,000 for Ad-Hoc reporting specialist.

- Project Oversight. Additional expenditures of $153,800 are proposed for more oversight activities for the WaRMSS project. This is all done by contract.

- Data Center. Additional expenditures of $159,000 are proposed for increased data charges to support a centralized reporting database and hardware.

- Operating Equipment and Expenses. Additional expenditures of $213,000 is requested for general operating expenses, travel, training, and communications for all of the requested 12 new staff.

Background—Deficiencies at State Hospitals Lead to U.S. DOJ Agreement Regarding CRIPA. In July 2002, the U.S. Department of Justice completed an on-site review of conditions at Metropolitan State Hospital. Recommendations for improvements at Metropolitan in the areas of patient assessment, treatment, and medication were then provided to the DMH. Since this time, the U.S. DOJ identified similar conditions at Napa, Patton, and Atascadero (Coalinga was not involved). **The Administration and US DOJ finally reached a Consent Judgment (Agreement) on May 2, 2006.**

This Agreement provides a timeline for the Administration to address the CRIPA deficiencies and included agreements related to treatment planning, patient assessments, patient discharge planning, patient discipline, and documentation requirements. It also addresses issues regarding quality improvement, incident management and safety hazards in the facilities.

A key component to successfully addressing the CRIPA deficiencies is implementation of the "Recovery Model" at the State Hospitals. Under this model, the hospital's role is to assist individuals in reaching their goals through individualized mental health treatment, and self determination.

The "Recovery Model", as required by the Agreement, includes such elements as the following:

- Treatment is delivered to meet individual's needs for recovery in a variety of settings including the living units, psychosocial rehabilitation malls and the broader hospital community.

- There are a broad array of interventions available to all individuals rather than a limited array.
- A number of new tracking and monitoring systems must be put in place to continually assess all major clinical and administrative functions in the hospitals.
- Incentive programs—called "By Choice" will be used to motivate individuals to make positive changes in their lives.

What is WaRMSS? The Wellness and Recovery Model Support System (WaRMSS) is the automation system used to address requirements identified in the CRIPA Agreement. According to the DMH, the key project objectives include the following:

- Automate patient specific data to assist in monitoring and evaluation.
- Develop a centralized application to support the new CRIPA required business processes for use by all five State Hospitals.
- Minimize redundant entry of data, facilitate ease of data retrieval, and allow for the access of prior hospitalization data upon admission to a different State Hospital.
- Standardize business processes across all State Hospitals.

Originally, WaRMSS was scheduled to begin development in May 2006 and be completed by January 1, 2009. The DMH's revised schedule now assumes a June 30, 2009 completion date.

Subcommittee Staff Comment and Recommendation to Re-Tool Proposal. Clearly, the CRIPA Agreement is important for California to meet. However, considerable question arises regarding this proposal with respect to the utilization of existing resources within the DMH Headquarters and State Hospitals, as well as the significant increase in funding for the WaRMSS information system specifically.

Further, given the concerns raised by OSAE in their Internal Control Review with respect to the lack of contract oversight and disarray with information technology projects, question arises as to whether the DMH should be proceeding with this project on their own without *substantially* increased oversight by the Office of the State Chief Information Officer.

First, the DMH has vacancies within *both* the Long-Term Care Division and Information Technology Division which could be redirected for key efforts regarding CRIPA implementation. Based on recent DMH organization charts, there are numerous vacancies within both of these Divisions. For example, there are at least 8 vacant Consulting Psychologist positions and at least 8 vacant journey-level Analyst positions within the Long-Term Care Division. The Information Technology Division has at least 6 vacancies which are journey-level Information Analysts or higher. Additional resources should not be provided when existing resources are not being fully utilized.

Further in the view of Subcommittee staff, the DMH has resources within the Community-Services Division of the department which are either vacant, or could be used for redirection in some cases. In addition, some of the vacant existing positions could be re-classified and assigned to the Long-Term Care Division or Information Technology Division for use in meeting CRIPA needs.

Second, with respect to the WaRMSS implementation, the overall $3.263 million (General Fund) increase over the original estimate appears to be excessive (224 percent increase). This is particularly questionable given the augmentation provided in 2006, as discussed below.

The Legislature has been very supportive of CRIPA implementation efforts, including funding in 2006. Specifically, the Legislature approved $2.5 million ($2.4 million General Fund) in 2006 for WaRMSS. Of this total amount $1.8 million was for Headquarters state support for 5 new positions, $985,000 in contract funds for software development and project oversight. The remaining amount of $706,000 was to be used to fund 10 permanent positions at the State Hospitals to support the system. Therefore, it is unclear why more State Hospital staff is needed for this effort. In addition, the Administration's proposal for continued activation of Coalinga State Hospital also requests additional positions to implement WaRMSS.

It is therefore recommended for the Subcommittee to reject this proposal in its entirety and send it to Conference Committee for further discussion. If the DMH chooses to provide a revised proposal to the Subcommittee prior to the May Revision for its consideration, then this issue could be revisited if desired by the Chair. Given the very difficult fiscal situation, it is imperative for the Administration to more comprehensively utilize existing resources and operate in a more efficient manner.

Questions. The Subcommittee has requested the DMH to respond to the following questions:

1. DMH, Please provide a brief update regarding CRIPA implementation.

2. DMH, Please provide a brief summary of the request.

4. County Purchased Beds at the State Hospitals are Subsidized by State

Issue. Due to fiscal constraints, Subcommittee staff is raising the issue of the state's continued use of General Fund support for State Hospital beds purchased by County MHPs for civil commitments. Specifically, the DMH provides about $9.8 million (General Fund) to subsidize, or to offset the full cost of, the State Hospital beds purchased by County MHPs.

As noted above, County MHPs purchase State Hospital beds from the DMH on a contracted basis. According to the DMH's budget, it is estimated that County MHPs will contract for a total of 542 beds (i.e., "Civil Commitments") in 2008-09.

Counties purchase State Hospital beds using their County Realignment Funds (Mental Health Subaccount). Under realignment, counties may choose to purchase State Hospital beds or to utilize community-based resources as appropriate for the individual patient.

During the mid-1990's, the DMH provided some General Fund support to counties to offset the high cost of State Hospital beds while counties were developing community-based resources, including crisis intervention services and more expansive continuum of care services. As community-based resources were expanded, the counties purchased fewer State Hospital beds over time.

Subcommittee Staff Comment and Recommendation. During the mid-1990's General Fund augmentations were provided for several years to assist in offsetting the high cost of State Hospital beds to enable counties to purchase beds as necessary for patient care.

However, with the development over time of community-based resources, and the state's present fiscal situation, the state should consider eliminating the $9.8 million (General Fund) subsidy for counties. Without the General Fund subsidy, County MHPs may choose to purchase a State Hospital bed at full cost, utilize other long-term care resources, access other community-based resources, or develop new treatment models for patients.

It is recommended to have a discussion on this issue and to hold it open at this time, pending receipt of information from the DMH and County MHPs.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please comment on the use of state General Fund support in subsidizing the County MHP purchase of State Hospital beds.

2. LAO, Any comment regarding this issue?

5. Court Testimony and Evaluation Expenses for Sexually Violent Predators

Issue. The DMH is requesting an increase of $3.037 million (General Fund) to fund "initial" evaluations due to the underestimation of actual referrals received. The DMH states that current year-to-date data indicates the DMH will be receiving about 9,000 total cases in the budget year. This is an additional 1,380 cases above the previous funded projection of 7,620 cases per year.

Jessica's Law increased the number of case referrals to the DMH by expanding the definition of a sexually violent offense from 9 to 35 qualifying sex offenses.

Each referred individual meeting the criteria must, at a minimum, be evaluated by two licensed clinicians (i.e., "initial" evaluation). Since the implementation of Jessica's Law, 29 percent of the cases referred have required "initial" evaluations. Ten percent of these cases resulted in a difference of opinion (one negative and one positive) and required a third and fourth evaluation. Therefore, the DMH anticipates it will conduct 5,742 initial evaluations (9,000 cases * 29 percent *2.2) in 2008-09.

As noted in the table below, the DMH is presently funded to perform 5,197 initial evaluations and is requesting the increase of $3.037 million to fund an additional 545 more cases. The cost per "initial" evaluation is being increased from $3,835 to $4,000 to reflect increased travel costs. The $4,000 per "initial" evaluation assumes $3,500 for clinical work and $500 for travel expenses. All of these evaluations are done through contracts administered by the DMH.

Evaluation Component	**Total Amount Current Year**	**Requested Increase for Budget Year (GF)**	**Total 2008-09**
Initial Evaluations	$19,930,000 (5,197 total)	**$3,037,505** (545 more cases)	$22,968,000 (5,742 total)
Initial Court Testimony	$732,000		$732,000
Evaluation Updates	$410,000		$410,000
Recommitment Evaluations)	$1,574,000		$1,574,000
Recommitment Court Testimony	$1,087,000		$1,087,000
Recommitment Updates	$853,000		$853,000
Other miscellaneous, airfare, consultation, evaluator training	$2,801,000		$2,801,000
Totals (rounded)	**$27.4 million**	**$3.037 million**	**$32.2 million**

Background-- DMH Responsibilities. When the DMH receives a referral from the CA Department of Corrections and Rehabilitation (CDCR), the DMH is responsible for the following key functions:

- *Screening*. The DMH screens referred cases to determine whether they meet legal criteria pertaining to SVPs to warrant clinical evaluation. Those not referred for an evaluation remain with the CDCR until their parole date.

- *Evaluations.* Two evaluators (Psychiatrists and/or Psychologists), who are under contract with the DMH, are assigned to evaluate each sex offender while they are still held in state prison. Based on a review of the sex offender records, and an interview with the inmate, the evaluators submit reports to the DMH on whether or not the inmate meets the criteria for an SVP. If two evaluators have a difference of opinion, two additional evaluators are assigned to evaluate the inmate.

Offenders, who are found to meet the criteria for an SVP, as specified in law, are referred to District Attorneys (DAs). The DAs, then determine whether to purse their commitment by the courts to treatment in a State Hospital as an SVP.

If a petition for a commitment is filed, the clinical evaluators are called as witnesses at court hearings. Cases that have a petition filed, but that do *not* go to trial in a timely fashion may require updates of the original evaluations at the DA's request.

The amount of time it takes to complete the commitment process may vary from several weeks to more than a year depending on the availability of a court venue and the DA's scheduling of cases. While these court proceedings are pending, offenders who have not completed their prison sentences continue to be held in prison. *However*, if an offender's prison sentence has been completed, he or she may be held either in county custody or in a State Hospital.

Background—Sexually Violent Predator Act. Enacted in 1995 (AB 888, Rogan), this act created a new civil commitment for "Sexually Violent Predators" (SVPs). The DMH is responsible for the implementation and administration of the SVP Program. This program is impacted by change which has occurred in the form of amended statutes, court decisions, changes in the methods of risk prediction and increased expectations for contract evaluators to be better prepared to conduct evaluations and provide court testimony.

Background—SB 1128 (Alquist), Statutes of 2006. This legislation made changes in law to generally increase criminal penalties for sex offences and strengthen state oversight of sex offenders. For example, it requires that SVPs be committed by the court to a State Hospital for an undetermined period of time rather than the renewable two-year commitment provided under previous law.

This law also mandates that every person registering as a sex offender is subject to assessment using the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO), a tool for predicting the risk of sex offender recidivism.

Background—Proposition 83 of November 2006—"Jessica's Law". Approved in November 2006, this proposition increases penalties for violent and habitual sex offenders and expands the definition of an SVP. The measure generally makes more sex offenders eligible for an SVP commitment by **(1)** reducing from two to one the number of prior victims of sexually violent offenses that qualify an offender for an SVP commitment, and **(2)** making additional prior offenses "countable" for purposes of an SVP commitment.

Subcommittee Staff Recommendation—Hold Open. It is recommended to "hold" this issue "open" *and* to direct the Legislative Analyst's Office (LAO) to analyze the DMH's request in the context of recent trends regarding the need for the initial evaluations, as well as the level of funding proposed for this purpose.

Questions. The Subcommittee has requested the DMH to respond to the following questions:

1. DMH, Please provide a brief description of the evaluation process and the budget request.